

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of Groundwater)	PRELIMINARY DETERMINATION
Registration Modification Application)	PROPOSING APPROVAL OF
T-13221, Marion County)	MODIFICATIONS IN POINTS OF
)	APPROPRIATION, PLACE OF USE,
)	CHARACTER OF USE AND
)	CANCELLATION OF AN ENTIRE WATER
)	RIGHT

Authority

Oregon Revised Statutes (ORS) 537.610, 537.705 and 540.505 to 540.580 establish the process in which the holder of a certificate of registration may submit a request for recognition of modifications to the place of use, character of use or point of appropriation under a ground water certificate of registration.

Oregon Administrative Rules (OAR) Chapter 690, Divisions 382 and 380 implement the statutes and provide the Department's procedures and criteria for evaluating ground water registration modification applications.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant

MAYFIELD FARMS, LLC.
C/O CHARLES W. EGGERT
18555 SW TETON AVE.
TUALATIN, OR 97062

Agent

DOANNE HAMILTON
PACIFIC HYDRO-GEOLOGY
18487 S. VALLEY VISTA RD.
MULINO, OR 97042-8741

Findings of Fact

1. On July 16, 2019, Mayfield Farms, LLC, Charles W. Eggert, filed a groundwater registration modification application to modify the points of appropriation, place of use and character of use under Registration Application GR-3351 (Certificate of Registration GR-3103). The Department assigned the application number T-13221.

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

2. On February 5, 2008, Registration Application GR-3351 (Certificate of Registration GR-3103) was partially assigned from Roy R. Smith and Robert Hubbard to Charles Eggert of Rock Ridge Farms, LLC.
3. Notice of the application for groundwater registration modification was published on July 23, 2019, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
4. The Department determined in its initial review that there were two layered water rights with GR-3351 (Certificate of Registration GR-3103) on the "FROM" lands proposed for modification. Consistent with OAR 690-382-0200 (1)(2) and (3), on January 28, 2020, the Department sent the applicant a letter describing options for addressing the conflicts with the layered water rights. The letter additionally identified a need to file an assignment consistent with OAR 690-382-0300 in order to continue processing the ground water registration modification application.
5. On February 3, 2020, Registration Application GR-3351 (Certificate of Registration GR-3103) was assigned from Rock Ridge Farms LLC, c/o Charles Eggert to Mayfield Farms, c/o Charles W. Eggert.
6. On February 26, 2020, the agent for the applicant submitted a voluntary cancellation affidavit requesting to cancel Certificate 93743. This shall remedy the layered water right conflict and is further described in Finding #15 below.
7. On April 20, 2020, the applicant, Charles Eggert of Mayfield Farms, LLC, submitted a statement indicating that he does not intend on proving up on the 1.0 acre of Industrial use authorized in Transfer Application T-10329. This along with the reversion of the remainder of T-10329 shall remedy the other layered water right conflict.
8. The portion of the groundwater registration to be modified is as follows:

Registration: GR-3351 (Certificate of Registration GR-3103), in the name of ROY R. SMITH and ROBERT HUBBARD (*partially assigned to ROCK RIDGE FARMS LLC, C/O CHARLES EGGERT; assigned to MAYFIELD FARMS, LLC, C/O CHARLES W. EGGERT; as modified by Special Order Volume 76, page 929*)

Use: IRRIGATION of 19.0 ACRES and 1.0 ACRE INDUSTRIAL USE

Tentative

Priority Date: JUNE 1946

Quantity: 112.0 GALLONS PER MINUTE; 74.0 ACRE FEET PER YEAR

Source: 3 WELLS, within the WILLAMETTE RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
3 S	1 W	WM	32	SE SE	WELL 1 – 20 FEET NORTH AND 900 FEET WEST FROM THE SE CORNER OF SECTION 32
3 S	1 W	WM	32	SE SE	WELL 2 – 30 FEET NORTH AND 340 FEET WEST FROM THE SE CORNER OF SECTION 32
3 S	1 W	WM	32	SE SE	WELL 3 – 30 FEET NORTH AND 630 FEET WEST FROM THE SE CORNER OF SECTION 32

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	GLot	Acres
3 S	1 W	WM	32	SW SE	9	0.1*
3 S	1 W	WM	32	SE SE	9	18.9*
Total						19.0

*Note: Certificate 93743 is a layered water right that exists on these lands and is not being used. The applicant has filed a voluntary cancellation affidavit requesting to cancel this right. See Finding #16 below.

INDUSTRIAL						
Twp	Rng	Mer	Sec	Q - Q	GLot	Acres
3 S	1 W	WM	32	SE SE	9	1.0*

*Note: another 1.0 acre of Industrial (*inchoate under T-10329/Certificate 33546*) exists on these lands and the applicant has submitted a statement stating that they will not prove up on it.

9. Groundwater Registration Modification Application T-13221 proposes to modify the points of appropriation under the groundwater registration and move west and east varying approximately 5 feet to 600 feet and north approximately 920 feet from the previously approved points of appropriation to five new wells located as follows:

Twp	Rng	Mer	Sec	Q - Q	GLot	Measured Distances
3 S	1 W	WM	32	SE SE	9	WELL 1 – 335 FEET NORTH AND 1165 FEET WEST FROM THE SE CORNER OF SECTION 32
3 S	1 W	WM	32	SE SE	9	WELL 2 – 20 FEET NORTH AND 930 FEET WEST FROM THE SE CORNER OF SECTION 32
3 S	1 W	WM	32	SE SE	9	WELL 3 – 25 FEET NORTH AND 765 FEET WEST FROM THE SE CORNER OF SECTION 32
3 S	1 W	WM	32	SE SE	9	WELL 4 – 45 FEET NORTH AND 565 FEET WEST FROM THE SE CORNER OF SECTION 32
3 S	1 W	WM	32	SE SE	9	WELL 5 – 960 FEET NORTH AND 580 FEET WEST FROM THE SE CORNER OF SECTION 32

10. Ground Water Registration Modification Application T-13221 also proposes to modify the character of use under the 1.0 acre industrial to irrigation.
11. Ground Water Registration Modification Application T-13221 also proposes to modify the place of use of the entire 20.0 acres to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q - Q	GLot	DLC	Acres
3 S	1 W	WM	32	SW SE		39	6.2
3 S	1 W	WM	32	SW SE	9		0.1
3 S	1 W	WM	32	SE SE	9		13.7
Total:							20.0

12. The Department has determined that the proposed WELL #1 (MARI 68155) and proposed construction under the remaining Wells #2 thru Well #5 will develop the same source of water as the authorized existing Wells #1, 2 and 3.

Review Criteria for Ground Water Registration Modification Applications [OAR 690-382-0700(2)]

- 13. The proposed modifications would not result in enlargement of the ground water registration.
- 14. The proposed modifications would not result in a state Scenic Waterway not receiving previously available water during periods in which streamflows are less than the quantities determined by the Department to be necessary to meet the requirements of ORS 390.835.
- 15. The proposed modifications would not result in injury to other water rights.

Cancellation of an entire Water Right

- 16. On February 26, 2020, the applicant submitted an affidavit meeting the requirements of ORS 540.621 for the cancellation of water right Certificate 93743 and shall remedy the layered situation described above in Finding #8. The applicant has abandoned any and all interest in this water right for primary irrigation and is described as follows:

Certificate: 93743 in the name of the name of MAYFIELD FARMS, LLC (perfected under Permit G-2481)

Use: IRRIGATION of 15.8 ACRES

Priority Date: AUGUST 14, 1963

Rate: 0.20 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and 2½ acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL, within the WILLAMETTE RIVER basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	GLot	Measured Distances
3 S	1 W	WM	32	SE SE	9	400 FEET NORTH AND 330 FEET EAST FROM THE NW CORNER OF LOT 1 (NE¼ NE¼), SECTION 5, T4S, R1W, WM.

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q - Q	GLot	Acres
3 S	1 W	WM	32	SW SE	9	0.1
3 S	1 W	WM	32	SE SE	9	15.7
Total:						15.8

Determination and Proposed Action

The modifications in points of appropriation, place of use and character of use proposed in Groundwater Registration Modification T-13221 appear to be consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000. If protests are not filed pursuant to OAR 690-382-0900, the modification will be approved and the abandoned water right Certificate 93743 is cancelled.

If Groundwater Registration Modification T-13221 is approved, the final order will include the following:

- 1. The modifications to Registration Application GR-3351 (Certificate of Registration GR-3301) proposed in Groundwater Registration Modification Application T-13221 are recognized. Recognition of the modifications shall not be construed as a final determination of the right to appropriate groundwater under the certificate of registration or modification. Such a determination will occur in an adjudication proceeding under ORS 537.670 to 537.695. The layered water right that has been abandoned is cancelled.*
- 2. Water right certificate 93743 is cancelled.*
- 3. The use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Registration Application GR-3351 (Certificate of Registration GR-3301) and any related decree.*
- 4. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
- 5. Water shall no longer be appropriated from the originally recognized points of appropriation as part of this ground water certificate of registration.*
- 6. The quantity of water diverted at the new points of appropriation (Well 1, 2, 3, 4, and 5), shall not exceed the quantity of water lawfully available at the original points of appropriation (Wells 1, 2, and 3).*
- 7. Water shall no longer be appropriated for the former character of use as part of this groundwater certificate of registration.*

8. *The former place of use of the modified groundwater registration shall no longer receive water as part of the groundwater certificate of registration.*

Dated at Salem, Oregon this JUL 15 2020.


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

This Preliminary Determination was prepared by Ken Dowden, and is now assigned to Corey Courchane. If you have questions about the information in this document, you may reach me at 503-986-0825 or corey.a.courchane@oregon.gov

Protests should be addressed to the attention of Water Rights Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266

IMPORTANT: Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

Notice Regarding Service Members: Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

July 15, 2020

MAYFIELD FARMS, LLC.
C/O CHARLES W. EGGERT
18555 SW TETON AVE.
TUALATIN, OR 97062

SUBJECT: Groundwater Registration Modification T-13221

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13221. This document is an intermediate step in the approval process; water may not be used legally as proposed in the groundwater registration modification application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication and in the Wilsonville Spokesman newspaper, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the last date of newspaper publication, whichever is later.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

IMPORTANT: Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

Please do not hesitate to contact me, at corey.a.courchane@oregon.gov or (503) 986-0825, if I may be of assistance.

Sincerely,

A handwritten signature in blue ink that reads "Corey Courchane". The signature is fluid and cursive, with the first name "Corey" and last name "Courchane" clearly distinguishable.

Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: T-13221
Greg Wacker, District 16 Watermaster (*via e-mail*)
Doann Hamilton, Agent for the applicant (*via e-mail*)

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